

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

NATIONAL UNION FIRE INSURANCE  
COMPANY OF PITTSBURGH, PA, et al.,

Petitioners,

- against -

BMC STOCK HOLDINGS, INC.,

Respondent.

CASE NO. 18 CV 5777 (RJS)

**CERTIFICATE OF SERVICE**

ANTHONY ROSARIO, hereby certifies pursuant to 28 U.S.C. 1746 and under penalty of perjury that on the 5<sup>th</sup> day of July, 2018, I served a true copy of the attached **ORDER ENTERED JULY 3, 2018** upon respondent BMC Stock Holdings, Inc. in the manner indicated below:

**By First Class Mail**

BMC Stock Holdings, Inc.  
Respondent  
Two Lakeside Commons  
980 Hammond Drive NE  
Atlanta, Georgia 30328

BMC Stock Holdings, Inc.  
c/o Corporation Service Co.  
Registered Agent of Service for Respondent  
251 Little Falls Drive  
Wilmington, DE 19808

Dated: New York, New York  
July 5, 2018



ANTHONY ROSARIO

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

NATIONAL UNION FIRE INSURANCE  
COMPANY OF PITTSBURGH, PA, *et al.*,

Petitioners,

-v-

BMC STOCK HOLDINGS, INC.,

Respondent.

No. 18-cv-5777 (RJS)  
ORDER

RICHARD J. SULLIVAN, District Judge:

On June 26, 2018, Petitioners commenced this action by filing a petition to compel arbitration pursuant to 9 U.S.C. § 4. (Doc. No. 1.) Petitioners now seek “an Order to Show Cause . . . [and] a hearing on Petitioners’ motion to compel arbitration . . . as soon as the Court’s convenience will permit, and, if at all possible, prior to July 20, when National Union is due to respond to an action Respondent filed in California . . . .” (Doc. No. 9.) However, the Federal Arbitration Act does not require a “live evidentiary hearing . . . when a ‘hearing on the papers’ will sufficiently apprise the Court of all legal and factual issues and there are no disputed issues of material fact.” *Epstein Becker & Green, P.C. v. Brown*, No. 10-cv-4784 (LTS), 2010 WL 3835067, at \*1 (S.D.N.Y. Sept. 10, 2010) (citing *Marks 3 Zet-Ernst Marks Gmbh & Co. KG v. Presstek, Inc.*, 455 F.3d 7, 14 (1st Cir. 2006)). Moreover, Section 6 of the Federal Arbitration Act provides that petitions to compel arbitration “shall be made and heard in the manner provided by law for the making and hearing of motions, except as otherwise herein expressly provided.” 9 U.S.C. § 6; *see also ISC Holding AG v. Nobel Biocare Fin. AG*, 688 F.3d 98 (2d Cir. 2012).

Accordingly, IT IS HEREBY ORDERED THAT Petitioners’ request for an order to show cause is DENIED. IT IS FURTHER ORDERED THAT Petitioners shall file a memorandum of law


in support of their petition by July 13, 2018, Respondent shall submit its opposition to the petition by August 3, 2018, and Petitioners shall submit their reply by August 13, 2018. Once Petitioners' petition is fully briefed, the Court will determine whether it is necessary to hold a hearing in this matter.

IT IS FURTHER ORDERED THAT, by July 7, 2018, Petitioners shall serve Respondent with a copy of this Order and file a certificate of service on ECF indicating that this service was effectuated. Respondent shall thereafter file a notice of appearance through ECF.

To the extent that Petitioners wish to stay the action filed by Respondent in the United States District Court for the Central District of California, they should file a motion to do so in that court.

SO ORDERED.

Dated: July 3, 2018  
New York, New York

  
RICHARD J. SULLIVAN  
UNITED STATES DISTRICT JUDGE